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JAN - 6 2004

Paper No. 13

In re Application of
Shozo Oguri *et al*
Application No. 09/764,318
Filed: January 19, 2001
Attorney Docket No. 2001.0046A

: DECISION ON PETITION
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This is a decision on the petition filed on November 28, 2003 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the Office action dated May 2, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioners allege that this application is not abandoned because a timely and proper reply to the Office letter in question was in fact filed on July 29, 2003, a date within the time set by the Office letter in question for filing a reply thereto. In support of this allegation, petitioners have supplied a copy of a post card receipt showing that an amendment and formal drawings were in fact filed in the Office on July 29, 2003.

Petitioner has not, however, furnished a copy of the reply (and formal drawings) filed on July 29, 2003. Absent a copy of the reply, it is not possible to determine whether the reply was in fact a proper reply to the Office letter in question. See 37 CFR 1.135(b). Accordingly, there is presently insufficient evidence bearing on the question of whether a timely and proper reply to the Office letter dated May 2, 2003 was in fact filed.

Petitioner may file a renewed petition to withdraw the holding of abandonment, without fee. The renewed petition must be filed within two months of the date of this Decision. See 37 CFR 1.181(f).

The application is being retained in Technology Center 3700 pending further action by petitioner.

PETITION DISMISSED.

E. Rollins-Cross, Director
Technology Center 3700

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